



Enabling people to speak up for themselves

DISCIPLINARY POLICY

The primary objective of North Yorkshire Advocacy's Disciplinary Procedure is to ensure that all disciplinary matters are dealt with promptly, fairly and consistently and, where there has been a breach of discipline, to encourage an improvement in individual conduct or performance.

Disciplinary Procedure

In all but a few straightforward cases the Organisation will first investigate all allegations of potential disciplinary offences to establish the facts before deciding whether to invoke the Disciplinary Procedure.

If disciplinary action is necessary a copy of the relevant investigatory notes and any other findings to be used in the hearing will be given to the employee prior to the hearing.

It may be necessary for the Organisation to suspend the employee whilst an investigation is taking place. Any suspension will be kept as brief as possible and will be on full pay. Suspension does not in itself constitute disciplinary action.

If North Yorkshire advocacy has decided to suspend an employee following an allegation of abuse of, or harm to, a child or vulnerable adult, the Organisation will take steps to establish as quickly as possible, whether the allegations have some element of substance. Where North Yorkshire Advocacy believes the allegations have some element of substance, they will refer details of the allegation to any relevant governing body and / or Exclusion List if appropriate to do so.

Where North Yorkshire Advocacy decides to invoke the Disciplinary Procedure, it will adhere to the procedure as follows. The employee will be written to asking them to attend a disciplinary hearing.

In the invitation letter North Yorkshire Advocacy will set out the issues that will be considered, how seriously these are being viewed and the potential consequences, and detail any intention to call witnesses. The letter will also detail the employee's right to be accompanied, as well as confirming how this right is exercised. North Yorkshire Advocacy will give the employee reasonable

notice of the requirement to attend the meeting to allow the employee to prepare his or her case.

Employees are entitled to be accompanied by a fellow employee or by a trade union official at the disciplinary meeting, and North Yorkshire Advocacy encourages them to make use of this entitlement.

North Yorkshire Advocacy will give the employee a full opportunity to present his or her case, present evidence and call witnesses at the disciplinary meeting before it decides whether or not to take any disciplinary action.

Following the disciplinary meeting, the Charity may take disciplinary action against the employee. In any event, the employee will be informed of the outcome of the meeting in writing as soon as possible.

Employees have the right to appeal against any disciplinary action taken against them, or in the event of their dismissal, in accordance with the Disciplinary and Dismissal Appeals Procedure (see below).

Non-attendance at disciplinary hearings

If an employee fails to attend a disciplinary hearing a second meeting will be arranged. Notification of the second meeting will explain to the employee that if they fail to attend again, without good reason, the meeting will be held in their absence and the outcome communicated in writing.

Stages of Disciplinary Action

Stage 1 – Verbal warning

If the employee's conduct or performance does not meet acceptable standards, they will normally be issued with a formal verbal warning (following an investigation and disciplinary hearing). The employee will be advised of the reason for the warning, the improvement required, that it is the first stage of the disciplinary procedure, that if there is no satisfactory improvement, further disciplinary action may be taken and of his or her right of appeal. A record will be kept of the warning and placed on the employee's file for six months, but will be disregarded for disciplinary purposes after this.

Stage 2 - Written warning

If the offence is a serious one, or if a further offence or no improvement occurs within six months of the verbal warning, a written warning will be issued to the employee (following an investigation and disciplinary hearing). The employee will be advised of the reason for the warning, the improvement required, that it is the second stage of the disciplinary procedure, that if there is no satisfactory improvement, further disciplinary action may be taken and of his or her right of appeal. A record will be kept of the warning and placed on the employee's file for twelve months, but will be disregarded for disciplinary purposes after this.

Stage 3 - Final written warning

If there is still a failure to improve conduct or performance, or if the employee's misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal (in effect both first and final written warnings), a final written warning will normally be issued. The employee will be advised of the reason for the warning, the improvement required, that if there is no satisfactory improvement, further disciplinary action may be taken and of his or her right of appeal. A record will be kept of the warning and placed on the employee's file for twelve months, but will be disregarded for disciplinary purposes after this.

Stage 4 - Dismissal

If conduct or performance is still unsatisfactory, and the employee fails to reach the required standards whilst the previous warning is still operative, dismissal will normally result (following an investigation and disciplinary hearing). Only a member of senior management can take a decision to dismiss. The employee will be provided with written reasons for dismissal, the date on which his or her employment will terminate (in accordance with the employee's notice entitlement), and notification of his or her right of appeal. Dismissal will normally be with notice or payment in lieu of notice. However, if the dismissal is for gross misconduct then the dismissal will be a summary dismissal which is without notice or payment in lieu of notice.

Whilst the above sequence describes the normal progression of disciplinary action, the organisation reserves the right to begin the disciplinary process at any stage, depending on the nature and seriousness of the offence(s).

Alternatives short of dismissal may be considered, e.g. demotion, transfer to other departments and/or duties.

Gross Misconduct

In cases where an employee has committed an act of gross misconduct, the organisation is entitled to summarily dismiss an employee without notice or pay in lieu of notice (following an investigation and disciplinary hearing). When an employee is suspected of gross misconduct he or she will be suspended on full pay while the organisation investigates the alleged offence and arranges a disciplinary hearing. The employee will be provided with written reasons for the dismissal, the date on which his or her employment will terminate and notification of his or her right of appeal.

Set out below are examples of behaviour which North Yorkshire Advocacy treats as gross misconduct. Such behaviour may result in dismissal without notice. This list is not exhaustive.

- theft, dishonesty or fraud
- deliberate recording of incorrect working hours
- smoking on Charity premises or in Charity Vehicles or in contravention of other site rules
- assault, acts of violence or aggression or bullying
- unacceptable use of obscene or abusive language
- possession or use of or being under the influence of non-medicinal drugs or alcohol on NYA premises or during working hours
- willful damage to NYA, employee or customer property
- serious insubordination
- serious or gross negligence
- bringing North Yorkshire Advocacy into disrepute
- falsification of records or other Charity documents, including those relating to obtaining employment
- unlawful discrimination, including acts of indecency or harassment (please refer to the Equal Opportunities Policy set out in this Handbook).
- refusal to carry out reasonable management instructions
- gambling, bribery or corruption
- serious breach of health and safety policies and procedures
- breach of confidentiality, including the unauthorised disclosure of North Yorkshire Advocacy business to the media or any other party
- unauthorised accessing or use of computer data
- unauthorised copying of computer software

EXCLUSION LISTS

In cases of dismissal due to instances of abuse of vulnerable adults or children, North Yorkshire Advocacy is obliged to refer details of the circumstances and the employee to the appropriate governing body and will also follow published procedures for referring to any relevant Exclusion List. There are various Exclusion Lists in operation in England and Wales, and also in Scotland. Examples of these are as follows:

England and Wales

When producing a Disclosure the Criminal Records Bureau in England and Wales will act as a “one-stop-shop” for organisations, checking police records, and in relevant cases they will also check the following three Exclusion Lists:

THE RIGHT TO BE ACCOMPANIED

Formal Meetings and Hearings

Employees are entitled to be accompanied by a work colleague or trade union official at any formal disciplinary or grievance meetings or appeal hearings.

An employee under the age of 18 may choose to be accompanied by a parent or legal guardian.

An employee who wishes to take advantage of this right must notify the Chief Executive of the name and position of his or her chosen companion. North Yorkshire Advocacy may refuse to allow the companion to attend the meeting or hearing if it considers there may be a conflict of interest. If so, North Yorkshire Advocacy must allow the employee to choose a different companion.

The meeting or hearing may be delayed for up to five working days if the companion is not available to attend.

The companion is permitted to put and sum up the employee’s case, respond on behalf of the employee to views expressed in the hearing, ask questions and confer with the employee, but is not entitled to answer questions directly on the employee’s behalf.

Informal Investigations

North Yorkshire Advocacy may, at its discretion, allow an employee to bring a companion to informal investigations or investigatory meetings. The companion

may not play an active part in the investigation or meeting.

North Yorkshire Advocacy may refuse permission for the companion to attend the informal investigation or investigatory meeting if it considers there may be a conflict of interest.

CODE OF CONDUCT

North Yorkshire Advocacy's Code of Conduct is set out below. It covers the main standards of behaviour the organisation requires from employees. The Code includes the Charity Rules, which employees need to follow, and examples of misconduct which the organisation normally regards as gross misconduct. A breach of the Charity Rules may result in disciplinary action. A single instance of gross misconduct may result in dismissal without notice.

The Charity Rules and the examples of gross misconduct are not exhaustive. All employees are under a duty to comply with the standards of behaviour and performance required by North Yorkshire Advocacy and to behave in a reasonable manner at all times.

Charity Rules

Attendance and Timekeeping

Employees are required to comply with the rules relating to notification of absence set out in the Charity's Absence Procedure.

Employees are required to arrive at work promptly, ready to start work at their contracted starting times. Employees are required to remain at work until their contracted finishing times.

Employees must obtain management authorisation if for any reason they wish to arrive later or leave earlier than their agreed normal start and finish times.

The Charity reserves the right not to pay employees in respect of working time lost because of poor timekeeping.

Persistent poor timekeeping may result in disciplinary action.

Entering and leaving the building

It is important for a number of reasons, including safety, that the organisation knows where staff are and who is in the building at all times.

All Staff should write their appointments in the shared calendars with contact details in case of emergency.

When Annual Leave has been approved staff are responsible for entering the dates on the timesheets and calendars.

Standards and Conduct

Employees are required to maintain satisfactory standards of performance at work.

Employees are required to comply with all reasonable management instructions.

Employees are required to co-operate fully with their colleagues and with management, and to ensure the maintenance of acceptable standards of politeness.

Employees are required to take all necessary steps to safeguard North Yorkshire Advocacy's public image and preserve positive relationships with its customers, clients or members of the public.

Employees are required to ensure that they behave in a way that does not constitute unlawful discrimination either with regard to the services delivered or to personal relationships.

Employees are required to comply with the Organisations operating policies and procedures.

Personal mobile telephones should be kept on silent during working hours; use, other than for business, should be limited during normal working hours.

Any queries received from the media must be referred immediately to the Chief Executive. Employees must not deal with queries themselves.

Flexibility

Employees may be required to work additional hours at short notice, in accordance with the needs of the business.

Employees may be required from time to time to undertake duties outside their normal job remit.

Employees may be required from time to time to work at locations other than their normal place of work.

Confidentiality

Employees are required to keep confidential, both during their employment and at any time after its termination, all information gained in the course of their employment about the organizations' business and that of the North Yorkshire Advocacy's clients or customers, except as required by law or in the proper course of their duties.

Outside Activities and Other Employment

Employees are not permitted to engage in any activity outside their employment with North Yorkshire Advocacy which could reasonably be interpreted as competing with the Organisation.

Employees must take care when using social networking and similar websites that they do not post material that breaches NYA or client confidentiality, or which is libelous or which could damage the business of North Yorkshire Advocacy.

Work Clothing

Employees are required to dress in a manner appropriate to the function in which they are engaged, and with due consideration for views, opinions and values of our clients.

Health and Safety

Employees are required to gain an understanding of North Yorkshire advocacy's health and safety procedures, observe them, and ensure that safety equipment and clothing are always used.

Employees must report all accidents, however small, as soon as possible, making an entry in the Accident Book.

Property and Equipment

Except for use on authorised client business, employees are not permitted to make use of the North Yorkshire Advocacy's or its clients' telephone, fax, postal or other services.

Where an employee damages property belonging to the North Yorkshire Advocacy either through misuse or carelessness, the organisation reserves the right to make a deduction from the employee's pay in respect of the damaged property.

On termination of their employment employees must return all NYA property, such as keys, laptops, mobile telephones, documents or any other items belonging to the North Yorkshire Advocacy. This list is not exhaustive.

Personal Searches and Personal Property

North Yorkshire Advocacy may reasonably request to search employees' clothing, personal baggage or vehicles. An authorised member of management in the presence of an independent witness must conduct any such search. Should an employee refuse such a request, the Organisation will require the appropriate authorities to conduct the search on behalf of the Organisation. An employee's failure to co-operate with NYA in this respect may be treated as gross misconduct.

Employees are solely responsible for the safety of their personal possessions on North Yorkshire Advocacy premises and should ensure that their personal possessions are kept in a safe place at all times.

Should an employee find an item of personal property on the premises he or she is required to inform management immediately.

Expenses

North Yorkshire Advocacy will normally reimburse employees in respect of any expenses wholly, necessarily and proportionately incurred in the course of their work, against production of relevant receipts.

Employees should keep receipts for all expenses incurred on charity activities and submit these via the agreed procedure.

North Yorkshire Advocacy reserves the right to refuse to pay an expense claim where the expenditure is unreasonable, disproportionate, unnecessary or not supported by receipts. Further information is available in the Expenses Policy.

Environment

In order to provide a cost-effective service, employees are requested to use NYA's equipment, materials and services wisely. Employees should try to reduce wastage and the subsequent impact on the environment by ensuring that they close windows, avoid using unnecessary lighting or heating or leaving taps running, switch off equipment when it is not in use and handle all materials with care.

Smoking

In order to provide a working environment which is pleasant and healthy, smoking is not permitted either in the office or in any other NYA work locations or

vehicles used for Advocacy business.

Changes in Personal Details

Employees must notify the Charity of any change in personal details, including change of name, address, telephone number or next of kin. This will help the Charity to maintain accurate personal details in compliance with the Data Protection Act 1998, and ensure it is able to contact the employee or another designated person in case of an emergency.

Third Parties

An employee's employment with North Yorkshire Advocacy may in some circumstances be conditional on the approval of third parties at whose premises he or she either works at or visits. If the third party withdraws permission for that employee to be on its site, NYA will consider all alternative arrangements which can be made in order to maintain the employee's continued employment. If, however, in the sole opinion of NYA, no alternative arrangements can be made, NYA reserves the right to terminate the employee's employment.

PERFORMANCE IMPROVEMENT PROCEDURE

General

North Yorkshire Advocacy operates a performance improvement procedure which works in parallel with the disciplinary procedure. Clearly it is not always appropriate to label incapability and poor performance as misconduct warranting disciplinary action, though it may be so sometimes. However, NYA does need to be able to address performance inadequacy and deal with it effectively.

Informal Performance Improvement Procedure

If North Yorkshire Advocacy considers that an employee's performance is unacceptable, the employee will be notified in writing of the Charity's concerns and / or complaints and the employee will be invited to attend an initial meeting with their line manager, to try to establish the reasons.

The employee will be given the opportunity to respond to the complaints or concerns about their performance.

The employee's manager will investigate the cause of the employee's poor performance. Causes could include, for example, lack of skills, inadequate training, lack of support, tools or other resources, lack of communication or problematic working relationships. The manager carrying out this initial

counselling will provide the employee factual examples of their unsatisfactory performance and the employee will be asked for their explanation, which will subsequently be followed up and checked where appropriate.

Where the reason for unsatisfactory performance is lack of the required skills, the employee will, where practicable, be assisted through training and be given reasonable time to reach the required standard of performance. If it is a question of lack of support employees, tools or other resources or facilities, attention should be paid to this and assistance provided if appropriate.

Formal Performance Improvement Procedure

The Charity will take steps to deal with the matter by way of formal performance or disciplinary warnings where:

- it is clear that the employee's performance does not arise from any of the reasons stated above; or
- The Charity has taken appropriate steps to assist the employee to improve his or her poor performance and he or she has not improved to the required standard within the specified timescale.

The employee will be informed in writing of the concerns about his or her poor performance and will be invited to attend a disciplinary meeting to discuss this with the manager responsible for reviewing his or her performance. The manager will seek to identify the cause(s) of the poor performance and determine what, if any, remedial action can be taken. The employee will be given the opportunity to respond to the concerns and / or complaints.

If at the conclusion of the disciplinary meeting the manager believes that there is a shortfall in the employee's performance which requires further attention from them, then the employee will be issued with a formal warning.

Formal performance warnings will usually set out:

- the nature of the poor performance;
- the level of improvement required;
- the time limit for achieving the required improvement;
- any interim review meeting to be held during the currency of the performance warning;

- what will happen if the employee fails to achieve or maintain the required standard of improvement; and
- How long the warning will remain active. This will normally be dependent on the circumstances and will be specified in the disciplinary warning letter.

Formal Warnings

The severity of the disciplinary action, if any, will be determined by the severity of the unsatisfactory performance. As the first step of corrective action following unsatisfactory performance the Charity will normally impose a verbal warning. If the unsatisfactory performance continues, the Charity may, having followed the Disciplinary Procedure in each instance, apply a written warning, final written warning and eventually dismiss the employee.

For more severe case of unsatisfactory performance the Charity may apply a final written warning if appropriate.

Verbal Warning

As the first step of corrective action following unsatisfactory performance the Charity will normally impose a verbal warning setting out the details as outlined above.

Written Warning

If there is no improvement or insufficient improvement after a verbal Warning, or if improvement is not maintained for the period stated in the verbal Warning, the employee will be given a written warning setting out the details as outlined above.

Final Written warning

If there is no improvement or insufficient improvement after a written warning, or if improvement is not maintained for the period stated in the written warning, the employee will be given a final written warning setting out the details as outlined above. The final written warning will include a statement that a failure to improve to the required standard is likely to result in dismissal.

Action short of Dismissal

Action short of dismissal such as demotion or transfer to a different post can only be used in exceptional circumstances. This is because a demotion is equivalent in legal terms to a dismissal. An employer must be in a position to “fairly dismiss”

an employee before a demotion can be imposed. However, there may be cases where an employee agrees to a change of duties including a demotion and a reduction in salary/benefits commensurate with a revised role as an acceptable outcome of a formal performance management procedure.

Employers should proceed with caution in such circumstances and seek advice from the 24 hour Telephone Advice Service.

Dismissal

If there is still no improvement or insufficient improvement after a final written warning, or if improvement has not been maintained for the period stated above, the employee will normally be dismissed with notice or pay in lieu of notice. Alternatively, at the Charity's entire discretion, alternative work elsewhere in the organisation may be offered to the employee if any suitable posts are available.

Right to be accompanied

Employees have the right to be accompanied at each meeting by a work colleague or trade union representative. Further detail is provided in the Right to be Accompanied policy.

Appeals

Employees have same rights of appeal at each stage of the procedure as detailed in the Disciplinary and Dismissal Appeals Procedure.

The Charity reserves the right to implement the procedure at any stage should the outcome of the initial review meeting suggest the performance failing warrants it.

DISCIPLINARY AND DISMISSAL APPEALS

All appeals must be made in writing no later than the end of the fifth working day after the employee has been notified in writing of the disciplinary decision or dismissal. The first of these five working days is the day on which the employee received written confirmation of the Charity's decision.

The employee should submit the written appeal to the Manager.

The Charity will arrange and hold an appeal meeting as quickly as possible. The employee will be entitled to attend the appeal meeting and will be given an opportunity to state his or her case. The employee must take all reasonable steps to attend this meeting.

The Charity will inform the employee in writing of its decision in response to the employee's appeal within a reasonable time taking into account the complexity of the issues raised in the appeal.

The decision at this stage will be final.

All meetings provided for in this Procedure will be arranged as quickly as possible. The purpose of this Procedure is to resolve at the earliest opportunity any issues raised. While the Charity will make every effort to settle issues within the time limits indicated this may not be possible on occasions. In these circumstances an extension of time may be necessary.

At all stages of the Procedure an employee is entitled to be accompanied by a fellow employee or a trade union official.

APPROVED BY THE BOARD OF TRUSTEES ON JUNE 2016

SIGNED ON BEHALF OF THE BOARD